

**ORIGINAL**

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FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

JUL 31 2015

SEAN F. McAVOY, CLERK  
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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL JAMES ALDERMAN,

Defendant.

Case No.: 2:15-CR-00038-JLQ

Plea Agreement

Plaintiff, United States of America, by and through MICHAEL C. ORMSBY,  
United States Attorney for the Eastern District of Washington, and Stephanie J. Lister,  
Assistant United States Attorney for the Eastern District of Washington, and  
Defendant, MICHAEL JAMES ALDERMAN, and the Defendant's counsel, Matthew  
Campbell, agree to the following Plea Agreement:

1) Guilty Plea and Maximum Statutory Penalties:

The Defendant, MICHAEL JAMES ALDERMAN, agrees to plead guilty,  
pursuant to Federal Criminal Procedure Rule 11(c)(1)(C), to Count 1 of the Indictment  
filed on April 21, 2015, charging the Defendant with Possession of Child  
Pornography, in violation of 18 U.S.C. § 2252A(a)(5)(B).

The Defendant, MICHAEL JAMES ALDERMAN, understands that the charge  
contained in the Indictment is a Class B Felony. The Defendant, MICHAEL JAMES

PLEA AGREEMENT - 1

1 ALDERMAN, also understands that the maximum statutory penalty for Possession of  
2 Child Pornography, in violation of 18 U.S.C. § 2252A(a)(5)(B), with a prior qualifying  
3 conviction, is not less than 10 years nor more than 20 years imprisonment; a fine not  
4 to exceed \$250,000; a term of supervised release of up to life; restitution, a Special  
5 Penalty Assessment of \$100; and registration as a sex offender.

6 The Defendant, MICHAEL JAMES ALDERMAN, understands that a violation  
7 of a condition of supervised release carries an additional penalty of re-imprisonment  
8 for all or part of the term of supervised release without credit for time previously  
9 served on post-release supervision.

10 2) The Court is Not a Party to the Agreement:

11 The Court is not a party to this Plea Agreement and may accept or reject this  
12 Plea Agreement. Sentencing is a matter that is solely within the discretion of the  
13 Court. The Defendant understands that the Court is under no obligation to accept any  
14 recommendations made by the United States and/or by the Defendant; that the Court  
15 will obtain an independent report and sentencing recommendation from the U.S.  
16 Probation Office; and that the Court may, in its discretion, impose any sentence it  
17 deems appropriate up to the statutory maximums stated in this Plea Agreement.

18 The Defendant acknowledges that no promises of any type have been made to  
19 the Defendant with respect to the sentence the Court will impose in this matter. The  
20 Defendant understands that the Court is required to consider the applicable sentencing  
21 guideline range, but may depart upward or downward under the appropriate  
22 circumstances.

23 Pursuant to Fed. R. Crim. P. 11(c)(1)(C), the Defendant and the United States  
24 agree to jointly recommend that the Defendant be sentenced to 12 years imprisonment,  
25 to be followed by a 25 year term of supervised release, for possession of child  
26 pornography.

1 If the Court does not accept the plea or chooses to sentence the Defendant to a  
2 greater or lesser sentence than the United States and the Defendant have agreed upon,  
3 the Defendant and the United States may each withdraw from the plea and this  
4 agreement is null and void.

5 3) Waiver of Constitutional Rights:

6 The Defendant, MICHAEL JAMES ALDERMAN, understands that by  
7 entering this plea of guilty the Defendant is knowingly and voluntarily waiving certain  
8 constitutional rights, including:

- 9 a. The right to a jury trial;
- 10 b. The right to see, hear and question the witnesses;
- 11 c. The right to remain silent at trial;
- 12 d. The right to testify at trial; and
- 13 e. The right to compel witnesses to testify.

14 While the Defendant is waiving certain constitutional rights, the Defendant  
15 understands the Defendant retains the right to be assisted through the sentencing and  
16 any direct appeal of the conviction and sentence by an attorney, who will be appointed  
17 at no cost if the Defendant cannot afford to hire an attorney.

18 4) Elements of the Offense:

19 The United States and the Defendant agree that in order to convict the  
20 Defendant of Possession of Child Pornography, in violation of 18 U.S.C. §  
21 2252A(a)(5)(B), the United States would have to prove beyond a reasonable doubt the  
22 following elements:

- 23 a. First, on or about January 16, 2015, within the Eastern District of  
24 Washington and elsewhere, the Defendant, MICHAEL JAMES  
25 ALDERMAN, knowingly possessed material that contained images of  
26 child pornography;

1 b. Second, that the material had been mailed, shipped or transported in  
2 interstate or foreign commerce by any means, including by computer, or  
3 that the material was produced using materials that had been mailed,  
4 shipped or transported in interstate or foreign commerce by any means,  
5 including by computer; and

6 c. Third, that at the time he possessed the material, the Defendant believed  
7 that such images constituted child pornography.

8 6) Factual Basis and Statement of Facts:

9 The United States and the Defendant stipulate and agree that the following facts  
10 are accurate; that the United States could prove these facts beyond a reasonable doubt  
11 at trial; and these facts constitute an adequate factual basis for MICHAEL JAMES  
12 ALDERMAN's guilty plea. This statement of facts does not preclude either party  
13 from presenting and arguing, for sentencing purposes, additional facts which are  
14 relevant to the guideline computation or sentencing, unless otherwise prohibited in  
15 this agreement.

16 On March 8, 2007, Defendant, Michael J Alderman, was sentenced in  
17 Kitsap County Superior Court in cause 07-1-00065-6 for Failure to Register as a  
18 Felony Sex Offender. He was sentenced to 36 months Community Custody  
19 Supervision. As a result, Alderman has the following Court imposed conditions:  
20 Possess/access no pornography, sexually explicit materials, and/or information  
21 pertaining to minors via computer (i.e. internet) and the following imposed  
22 Department of Correction (DOC) condition: consent to search and seizure of his  
23 person, residence, automobile, or other personal property if there is reasonable  
24 cause on the part of the Department of Corrections to believe that a violation has  
25 occurred.

26 On January 16, 2015, a Community Corrections Officer (CCO) received a  
27 phone call from a citizen that Alderman possessed a Tablet that contained images of

1 children posing nude and involved in sexual acts. Further investigation led CCO's to  
2 believe that Alderman was in violation of his conditions by using the internet to  
3 possess/access pornography. On January 16, 2015, Community Corrections Officers  
4 examined Alderman's Verizon 7" Tablet Model #QMV7A at the citizen witnesses'  
5 residence, found child pornography images on the Tablet and took possession of it.  
6 Also on January 16, 2015, a Community Corrections Officers went to Defendant  
7 Alderman's residence in Spokane, WA. Defendant Alderman opened the front door  
8 and was taken into custody without incident.

9 Further investigation resulted in the seizure by CCO of Alderman's cellular  
10 phone and his composition notebook. The composition notebook contained the  
11 username, password and security question for tazzmanfun@gmail.com. On February  
12 6, 2015, a Federal search warrant was issued by the Eastern District of Washington,  
13 served upon Google and Google responded with the account content of  
14 tazzman082372@gmail.com. Federal Bureau of Investigation Special Agent Leland  
15 McEuen reviewed the contents of the emails and found that there were several text  
16 emails regarding requests to trade child pornography, both from and to the email  
17 account tazzman082372@gmail.com. The account had several emails with child  
18 pornography attached to the emails. The account was linked to Hotjames69 on  
19 imgsrc.ru. An email dated 3-20-2014 received from Dmitrij Stretlin at  
20 dim.ok\_7496@mail.ru had two images attached to it that depicted a prepubescent  
21 female displaying her vagina. Additional emails discussed the trading and distribution  
22 of child pornography images.

23 On February 13, 2015, Defendant, Alderman, was interviewed at the  
24 Washington State Department of Correction (DOC) building in Spokane, WA.  
25 Alderman was advised of his *Miranda* rights, which he waived and he consented to  
26 the recording of the interview. Alderman stated that since October of 2014 he had  
27 been trading child pornography on the internet. Alderman said the Tablet computer

1 was his and that he used it to receive and trade child pornography. He stated that he  
2 transferred child pornography from the tablet to the Acer computer to store the images  
3 and videos, since the tablet had Internet access at open wi-fi locations but limited  
4 memory capacity. He tried to use KIK to watch a live child pornography event, but  
5 couldn't get the access to work. Alderman also confirmed that he chatted with other  
6 people regarding the trading of child pornography. Alderman stated he had a sexual  
7 interest in incest and stated that he had been convicted for molest of his prepubescent  
8 daughter. Alderman stated he had three prior events where he had sexual contact with  
9 a child.

10 A forensic examination was completed by an FBI Computer Forensic Agent of  
11 Alderman's 1) Verizon 7" Tablet model HFS-QMV7A, 2) Compaq Presario Computer  
12 S/N MXF550091Y and 3) LG Cell phone S/N 407CYTB0713393 which revealed in  
13 excess of 600 images and videos of child pornography; images depicting minors  
14 engaged in sexually explicit conduct. The child pornography images were first  
15 downloaded/received and possessed on September 12, 2014 and continued to be  
16 downloaded through on or about January 16, 2015. Some of the child pornography  
17 images portray sadistic, masochistic depictions of violence and a number of the  
18 images are images of children under the age of 12 years.

19 6) The United States Agrees:

20 At the time of sentencing, the United States agrees to move to dismiss Count 2  
21 of the Indictment, which charges the Defendant with Receipt of Child Pornography, in  
22 violation of 18 U.S.C. § 2252A(a)(2).

23 7) United States Sentencing Guideline Calculations:

24 The Defendant understands and acknowledges that the United States Sentencing  
25 Guidelines (hereinafter "U.S.S.G.") are applicable to this case and that the Court will  
26 determine the Defendant's applicable sentencing guideline range at the time of  
27 sentencing.

1           a.     Base Offense Level:

2           The United States and the Defendant agree that the base offense level for  
3 Possession of Child Pornography is 18. See U.S.S.G. §2G2.2(a)(1).

4           b.     Specific Offense Characteristics:

5           The United States and the Defendant also agree and stipulate that the base  
6 offense is increased by an additional two (2) levels because the material involved  
7 children who had not attained the age of 12. See U.S.S.G. §2G2.2(b)(2).

8           The United States and the Defendant also agree and stipulate that the base  
9 offense is increased by an additional two (2) levels because the offense involved  
10 distribution other than distribution described in subdivisions (A) through (E). See  
11 U.S.S.G. §2G2.2(b)(3)(F).

12           The United States and the Defendant also agree and stipulate that the base  
13 offense is increased by an additional four (4) levels because the offense involved  
14 material that portrays sadistic or masochistic conduct or other depictions of violence.  
15 See U.S.S.G. §2G2.2(b)(4).

16           The United States and the Defendant also agree and stipulate that the base  
17 offense is increased by an additional two (2) levels because the offense involved the  
18 use of a computer or an interactive computer service for the possession, transmission,  
19 receipt, or distribution of the material, or for accessing with intent to view the  
20 material. See U.S.S.G. §2G2.2(b)(6).

21           The United States and the Defendant also agree and stipulate that the base  
22 offense is increased by an additional five (5) levels because the offense involved more  
23 than 600 images of child pornography. See U.S.S.G. §2G2.2(b)(7)(D).

24           c.     Acceptance of Responsibility:

25           If the Defendant pleads guilty and demonstrates a recognition and an  
26 affirmative acceptance of personal responsibility for the criminal conduct; provides  
27 complete and accurate information during the sentencing process; does not commit

1 any obstructive conduct; accepts this Plea Agreement; and signs and provides this  
2 agreement for filing with the court no later than July 31, 2015, the United States will  
3 move for a three (3) level downward adjustment in the offense level for the  
4 Defendant's timely acceptance of responsibility, pursuant to U.S.S.G. §3E1.1(a) and  
5 (b).

6 The Defendant and the United States agree that the United States may at its  
7 option and upon written notice to the Defendant, not recommend a three (3) level  
8 downward reduction for acceptance of responsibility if, prior to the imposition of  
9 sentence, the Defendant is charged or convicted of any criminal offense whatsoever or  
10 if the Defendant tests positive for any controlled substance.

11 Furthermore, the Defendant agrees to pay the \$100 mandatory special penalty  
12 assessment to the Clerk of Court for the Eastern District of Washington, at or before  
13 sentencing, and shall provide a receipt from the Clerk to the United States before  
14 sentencing as proof of this payment, as a condition to this recommendation by the  
15 United States.

16 Therefore, the United States and the Defendant agree that the Defendant's final  
17 adjusted offense level would be 30.

18 d. Criminal History:

19 The United States and the Defendant understand that the Defendant's criminal  
20 history computation is tentative and that ultimately the Defendant's criminal history  
21 category will be determined by the Court after review of the Presentence Investigative  
22 Report. The United States and the Defendant have made no agreement and make no  
23 representations as to the criminal history category, which shall be determined after the  
24 Presentence Investigative Report is completed.

25 8) Jointly Recommended Term of Imprisonment:

26 The United States and the Defendant agree that this plea agreement is entered  
27 pursuant to Fed. R. Crim. P. 11(c)(1)(C) and to jointly recommend Defendant be



1 sentenced to 12 years imprisonment followed by a 25 year term of supervised release  
2 for possession of child pornography.

3 9) Criminal Fine:

4 The United States and the Defendant are free to make whatever  
5 recommendation concerning the imposition of a criminal fine that they believe is  
6 appropriate.

7 10) Supervised Release:

8 The United States and the Defendant agree to recommend that the Court impose  
9 a 25 year term of supervised release to include the following special conditions, in  
10 addition to the standard conditions of supervised release:

- 11 a. that the Defendant not have contact with any child under the age of  
12 18, without the presence of an adult and approved in advance by the  
13 Probation Officer, this includes prohibiting the Defendant from  
14 having any contact with any child by telephone or the internet. The  
15 Defendant shall immediately report any unauthorized contact with  
16 minor-aged children to the Probation Officer;
- 17 b. that the Defendant allow the Probation Officer or designee to conduct  
18 random inspections, including retrieval and copying of data from any  
19 computer, and any personal computing device that the Defendant  
20 possesses or has access to, including any internal or external  
21 peripherals. This may require temporary removal of the equipment  
22 for a more thorough inspection. The Defendant shall not possess or  
23 use any data encryption technique or program. The Defendant shall  
24 purchase and use such hardware and software systems that monitor  
25 the Defendant's computer usage, if directed by the Probation Officer;
- 26 c. that the Defendant shall not reside or loiter within 500 feet of places  
27 where children under the age of 18 congregate, which includes

1 primary and secondary schools, schoolyards, parks, playgrounds,  
2 shopping malls, daycare centers, carnivals, recreation centers, and  
3 arcades;

- 4 d. that the Defendant shall not possess or manufacture any sexually  
5 stimulating, sexually explicit or sexually oriented material including  
6 videos, magazines, photographs, computer generated depictions, or  
7 any other matter that depicts "sexually explicit conduct" involving  
8 children or adults, as defined by 18 U.S.C. § 2256(2). The Defendant  
9 shall not enter or be present at any establishment involved in the sex  
10 industry, including adult book stores, massage parlors, escort services,  
11 and strip bars. The Defendant shall not use any sex-related adult  
12 telephone number. The Defendant shall provide all his/her telephone  
13 records to monitor compliance, at the direction of the Probation  
14 Officer;
- 15 e. that the Defendant register as a sex offender, according to the laws of  
16 each state in which the Defendant resides, is employed, or is attending  
17 school. The Defendant shall provide verification of compliance with  
18 this requirement to the Probation Officer;
- 19 f. that the Defendant complete a sex offender evaluation, which may  
20 include periodic psychological, physiological, polygraph testing, and  
21 completion of the ABEL assessment, at the direction of the Probation  
22 Officer;
- 23 g. that the Defendant participate and successfully complete an approved  
24 state-certified sex offender treatment program, including compliance  
25 with all lifestyle restrictions and treatment requirements of the  
26 program. The Defendant shall allow reciprocal release of information  
27 between the Probation Officer and the treatment provider. The  
28

1 Defendant shall contribute to the cost of treatment according to the  
2 Defendant's ability.

3 11) Mandatory Special Penalty Assessment:

4 The Defendant agrees to pay the \$100 mandatory special penalty assessment to  
5 the Clerk of Court for the Eastern District of Washington, at or before sentencing,  
6 pursuant to 18 U.S.C. § 3013 and shall provide a receipt from the Clerk to the United  
7 States before sentencing as proof of this payment.

8 12) Payments While Incarcerated:

9 If the Defendant lacks the financial resources to pay the monetary obligations  
10 imposed by the Court, the Defendant agrees to earn the money to pay toward these  
11 obligations by participating in the Bureau of Prisons' Inmate Financial Responsibility  
12 Program.

13 13) Forfeiture:

14 The Defendant, MICHAEL JAMES ALDERMAN, agrees to voluntarily forfeit  
15 and relinquish all right, title and interest in all assets identified in the Notice of  
16 Criminal Forfeiture Allegations contained in the Indictment, to the United States, and  
17 hereby agrees to execute any and all forms and pleadings necessary to effectuate such  
18 forfeiture of such assets, including, but not limited to the following:

- 19 1) Verizon 7" Tablet model HFS-QMV7A,  
20 2) Compaq Presario Computer S/N MXF550091Y,  
21 3) LG Cell phone S/N 407CYTB0713393.

22 The Defendant stipulates that he is the sole owner of the assets identified in the  
23 Indictment and that no one else has an interest in the assets.

24 The Defendant acknowledges that the assets listed above that the Defendant is  
25 agreeing to forfeit are subject to forfeiture pursuant to 18 U.S.C. § 2253(a) and (b), as  
26 property used or intended to be used in any manner or part to commit or to facilitate  
27 the commission of the Possession of Child Pornography charge alleged in the

1 Indictment to which Defendant is pleading guilty. The Defendant agrees to take all  
2 steps as requested by the United States to pass clear title to the assets to the United  
3 States, and to testify truthfully in any forfeiture proceeding.

4 The Defendant agrees to hold all law enforcement agents/officers, and the  
5 United States, its agents, and its employees harmless from any claims whatsoever  
6 arising in connection with the seizure and forfeiture of any asset covered by this  
7 agreement.

8 The Defendant waives further notice of any federal, state or local proceedings  
9 involving the forfeiture of the seized assets the Defendant is agreeing to forfeit in this  
10 Plea Agreement.

11 14) Additional Violations of Law Can Void Plea Agreement:

12 The Defendant and the United States agree that the United States may at its  
13 option and upon written notice to the Defendant, withdraw from this Plea Agreement  
14 or modify its recommendation for sentence if, prior to the imposition of sentence, the  
15 Defendant is charged or convicted of any criminal offense whatsoever or if the  
16 Defendant tests positive for any controlled substance.

17 15) Waiver of Appeal Rights and Collateral Attack:

18 Defendant understands that he has a limited right to appeal or challenge the  
19 conviction and sentence imposed by the Court. Defendant hereby expressly waives  
20 his/her right to appeal his/her conviction and the sentence the Court imposes,  
21 including any restitution order. Defendant further expressly waives his/her right to  
22 file any post-conviction motion attacking his/her conviction and sentence, including a  
23 motion pursuant to 28 U.S.C. § 2255, except one based upon ineffective assistance of  
24 counsel based on information not now known by Defendant and which, in the exercise  
25 of due diligence, could not be known by Defendant by the time the Court imposes the  
26 sentence.

1           16) Notice of Sex Offender Registration:

2           The Defendant has been advised and understands, that as a convicted sex  
3 offender, under the Sex Offender Registration and Notification Act, a federal law, the  
4 Defendant must register and keep the registration current in each of the following  
5 jurisdictions: the location of the Defendant's residence, the location of the Defendant's  
6 employment; and, if the Defendant is a student, the location of the Defendant's school.  
7 Registration will require that the Defendant provide information that includes name,  
8 residence address, and the names and addresses of any places at which the Defendant  
9 is or will be an employee or a student. The Defendant understands that he/she must  
10 update his/her registrations not later than three business days after any change of  
11 name, residence, employment, or student status. The Defendant understands that  
12 failure to comply with these obligations subjects the Defendant to prosecution for  
13 failure to register under federal law, 18 U.S.C. § 2250, which is punishable by a fine  
14 or imprisonment, or both.

15           17) Integration Clause:

16           The United States and the Defendant acknowledge that this document  
17 constitutes the entire Plea Agreement between the United States and the Defendant,  
18 and no other promises, agreements, or conditions exist between the United States and  
19 the Defendant concerning the resolution of the case. This Plea Agreement is binding  
20 only upon the United States Attorney's Office for the Eastern District of Washington,  
21 and cannot bind other federal, state or local authorities. The United States and the  
22 Defendant agree that this agreement cannot be modified except in a writing that is  
23 signed by the United States and the Defendant.

Approvals and Signatures

Agreed and submitted on behalf of the United States Attorney's Office for  
the Eastern District of Washington.

MICHAEL C. ORMSBY

United States Attorney

Stephanie J. Lister

Assistant U.S. Attorney

7/31/15  
Date

I have read this Plea Agreement and have carefully reviewed and discussed  
every part of the agreement with my attorney. I understand and voluntarily enter into  
this Plea Agreement. Furthermore, I have consulted with my attorney about my  
rights, I understand those rights, and I am satisfied with the representation of my  
attorney in this case. No other promises or inducements have been made to me, other  
than those contained in this Plea Agreement and no one has threatened or forced me in  
any way to enter into this Plea Agreement. I am agreeing to plead guilty because I am  
guilty.

MICHAEL JAMES ALDERMAN

Defendant

7-31-15  
Date

I have read the Plea Agreement and have discussed the contents of the  
agreement with my client. The Plea Agreement accurately and completely sets forth  
the entirety of the agreement between the parties. I concur in my client's decision to  
plead guilty as set forth in the Plea Agreement. There is no legal reason why the  
Court should not accept the Defendant's plea of guilty.

Matthew Campbell

Attorney for the Defendant

7-31-15  
Date